

**RALPH DLG. TORRES**  
Governor



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS  
**OFFICE OF THE GOVERNOR**

June 24, 2022

The Honorable Edmund S. Villagomez  
Speaker, House of Representatives  
Twenty-Second Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

The Honorable Justo S. Quitugua  
Acting President of the Senate  
Twenty-Second Northern Marianas  
Commonwealth Legislature  
Saipan, MP 96950

Dear Mr. Speaker and Acting President:

This is to inform you that I have signed into law **House Bill No. 22-102, HS1, HD1** entitled, "To exempt the Commonwealth Ports Authority from paying the one percent (1%) Public Auditor Fee with respect to airport revenues.", which was passed by the by the House of Representatives and the Senate of the Twenty Second Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 22-18**. Copies bearing my signature are forwarded for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read "Jude V. Hofschneider".

**JUDE V. HOFSCHEIDER**  
Acting Governor

cc: Acting Press Secretary; Attorney General's Office; Department of Finance; Commonwealth Ports Authority; Commonwealth Law Revision Commission; Public Auditor; Special Assistant for Administration; Special Assistant for Programs and Legislative Review



# House of Representatives

NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

P.O. BOX 500586  
SAIPAN, MP 96950

June 21, 2022

The Honorable Jude U. Hofschneider  
Acting Governor  
Commonwealth of the Northern  
Mariana Islands  
Capitol Hill  
Saipan, MP 96950

Dear Acting Governor Hofschneider:

I have the honor of transmitting herewith for your action **H. B. No. 22-102, HS1, HD1**, entitled: "To exempt the Commonwealth Ports Authority from paying the one percent (1%) Public Auditor Fee with respect to airport revenues.", which was passed by the House of Representatives and the Senate of the Twenty-Second Northern Marianas Commonwealth Legislature.

Sincerely yours,

  
Linda B. Muña  
House Clerk

Attachment





*Twenty-Second Legislature  
of the  
Commonwealth of the Northern Mariana Islands*

**IN THE HOUSE OF REPRESENTATIVES**

**FIRST REGULAR SESSION**

**MAY 25, 2022**

REPRESENTATIVE EDMUND S. VILLAGOMEZ OF SAIPAN, PRECINCT 3 (*for himself* Representative(s) Blas Jonathan "BJ" T. Attao, Celina R. Babauta, Corina L. Magofna, Donald M. Manglona, Leila H.F.C. Staffler, and Ralph N. Yumul,) in an open and public meeting with an opportunity for the public to comment, introduced the following Bill:

**H. B. No. 22-102, HS1, HD1**

**AN ACT**

**TO EXEMPT THE COMMONWEALTH PORTS AUTHORITY FROM  
PAYING THE ONE PERCENT (1%) PUBLIC AUDITOR FEE WITH  
RESPECT TO AIRPORT REVENUES.**

**IN THE HOUSE OF REPRESENTATIVES**

The Bill was referred to the House Committee on Ways and Means, which submitted Standing Committee Report 22-50; adopted 6/13/2022.

**THE BILL WAS PASSED BY THE HOUSE OF REPRESENTATIVES ON  
FIRST AND FINAL READING, JUNE 13, 2022;**  
*with amendments* in the form of H. B. No. 22-102, HS1, HD1 and transmitted to **THE SENATE.**

**IN THE SENATE**

The Bill was not referred to a Senate Committee.  
**THE BILL WAS PASSED BY THE SENATE ON FIRST AND FINAL READING, JUNE 17, 2022;**  
*without amendments* and returned to **THE HOUSE OF REPRESENTATIVES.**

**H. B. NO. 22-102, HS1, HD1 IS DULY PASSED BY THE TWENTY-SECOND NORTHERN MARIANAS  
COMMONWEALTH LEGISLATURE.**

  
Linda B. Muña, House Clerk



*Twenty-Second Legislature  
of the  
Commonwealth of the Northern Mariana Islands*

**IN THE HOUSE OF REPRESENTATIVES**

FIRST DAY, THIRD SPECIAL SESSION

JUNE 13, 2022

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**H. B. No. 22-102, HS1, HD1**

**AN ACT**

**TO EXEMPT THE COMMONWEALTH PORTS AUTHORITY FROM  
PAYING THE ONE PERCENT (1%) PUBLIC AUDITOR FEE  
WITH RESPECT TO AIRPORT REVENUES.**

**BE IT ENACTED BY THE TWENTY-SECOND NORTHERN  
MARIANAS COMMONWEALTH LEGISLATURE:**

**SECTION 1. FINDINGS AND PURPOSES.**

1           The Legislature finds that the Office of the Public Auditor (OPA) performs a critical  
2           function of government, in auditing the receipt, possession and disbursement of public funds  
3           and deterring, detecting, and investigating waste, fraud, and abuse of public resources. OPA  
4           exercises oversight over the entire Commonwealth government, including autonomous  
5           agencies and public corporations. To fulfill its constitutional and statutory mandates, OPA  
6           requires sufficient funding and independence from political interference. Article III, section 12  
7           of the Commonwealth Constitution guarantees OPA an annual budget of at least \$500,000, and  
8           Title 1, section 7831 of the Commonwealth Code provides that 1% of all locally generated  
9           funds appropriated by Commonwealth law as well as for all capital improvement projects, and  
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**HOUSE BILL 22-102, HS1, HD1**

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1 not less than 1% of the total operations budgets of public corporations or other autonomous  
2 agencies of the Commonwealth, shall be deposited in a special account separate from the  
3 General Fund, and the funds shall be administered and expended by the Public Auditor without  
4 further appropriation. The Legislature finds that this “1% Public Auditor Fee” provides an  
5 essential framework to support OPA’s operations and ensure its independence and integrity.

6 The Legislature further finds that the Commonwealth Ports Authority (CPA) is an  
7 autonomous agency that plays a critical role in managing the Commonwealth’s airports and  
8 seaports. The CPA is not funded primarily by legislative appropriations, and instead relies  
9 heavily on federal grants as well as revenues generated from fees and rents. The Legislature  
10 recognizes that federal law and federal grant assurances require the use of airport revenues for  
11 airport operations, maintenance, and capital improvements, and prohibit the diversion of  
12 airport revenues towards non-airport related operations and activities.  
13 *Cf.* 49 U.S.C. § 47107(b); 49 U.S.C. § 47133(a).

14 The Legislature further recognizes that CPA and federal grantors have expressed  
15 concern that the payment of the 1% Public Auditor Fee from CPA’s airport revenues may  
16 constitute unlawful revenue diversion, and could lead to CPA’s placement in non-compliance  
17 with federal grant conditions, as well as sanctions. Federal grant conditions do, however,  
18 permit CPA to pay for OPA services from airport revenues in connection with airport  
19 operations, provided that payments are calculated and documented pursuant to an approved  
20 cost allocation plan. *Cf.* Policy and Procedures Concerning the Use of Airport Revenue,  
21 64 Fed. Reg. 7696 (Feb. 6, 1999). The Legislature further recognizes OPA’s position that the  
22 1% Public Auditor Fee is a reasonable and allowable cost for the use of airport revenues, based  
23 in part on federal regulations and guidance permitting the allocation of indirect costs, and that  
24 there is no final determination from federal grantors that the 1% Public Auditor Fee in fact  
25 constitutes unlawful revenue diversion. The Legislature also notes that the 1% Public Auditor  
26 Fee has never been cited as a finding in CPA’s past audit reports.

27 Accordingly, the purpose of this Act is to exempt the Commonwealth Ports Authority  
28 from paying the 1% Public Auditor Fee as to airport revenues only. Seaport revenues shall still  
29 be subject to the 1% Public Auditor Fee. In addition, this Act permits the Office of the Public  
30 Auditor to charge CPA reasonable rates or fees for audits, enforcement actions, investigations,

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**HOUSE BILL 22-102, HS1, HD1**

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1 reviews, inspections, or other work actually conducted by OPA that is related to CPA's airport  
2 operations and activities, and to require CPA to pay for said services.

3 **SECTION 2. AMENDMENT.**

4 Title 1, section 7831 of the Commonwealth Code is hereby amended to add a new  
5 subsection (f) to read as follows:

6 “(f) The Commonwealth Ports Authority (CPA) shall be exempt from the  
7 withholding and payment requirements of subsections (a) and (b) as to CPA's airport  
8 revenues only. This exemption does not apply to CPA's seaport revenues or any other  
9 non-airport related funding sources of CPA. Provided, that the Office of the Public  
10 Auditor (OPA) may charge the Commonwealth Ports Authority a reasonable rate for  
11 any services rendered to CPA, including services related in whole or in part to CPA's  
12 airport operations and funding, and CPA shall pay OPA for these services no later than  
13 the end of the fiscal year following the year in which such service was requested or  
14 performed.”

15 **SECTION 3. SEVERABILITY.**

16 If any provisions of this Act or the application of any such provision to any person or  
17 circumstance should be held invalid by a court of competent jurisdiction, the remainder of this  
18 Act or the application of its provisions to persons or circumstances other than those to which  
19 it is held invalid shall not be affected thereby.


20 **SECTION 4. SAVINGS CLAUSE.**


21 This Act and any repealer contained herein shall not be construed as affecting any  
22 existing right acquired under contract or acquired under statutes repealed or under any rule,  
23 regulation, or order adopted under the statutes. Repealers contained in this Act shall not affect  
24 any proceeding instituted under or pursuant to prior law. The enactment of the Act shall not  
25 have the effect of terminating, or in any way modifying, any liability, civil or criminal, which  
26 shall already be in existence on the date this Act becomes effective.

**HOUSE BILL 22-102, HS1, HD1**

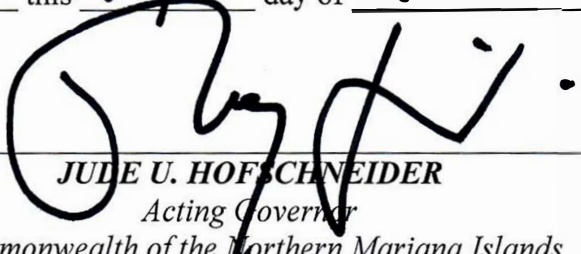
1           **SECTION 5. EFFECTIVE DATE.**

2           This Act shall take effect upon its approval by the Governor, or its becoming law  
3 without such approval.

Attested to by:   
**Linda B. Muña, House Clerk**

Certified by:   
**SPEAKER EDMUND S. VILLAGOMEZ**  
House of Representatives  
22<sup>nd</sup> Northern Marianas Commonwealth Legislature

Approved this 24<sup>th</sup> day of June, 2022

  
**JUDE U. HOFSCHEIDER**  
Acting Governor  
Commonwealth of the Northern Mariana Islands